



# STATE OF CONNECTICUT

## CONNECTICUT STATE LIBRARY

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**Testimony of Kendall Wiggin  
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Concerning Senate Bill 91**

**"An Act Modifying Records Retention Requirements for Certain Records in Electronic Form"**

**Committee on Government Administration and Elections – Public Hearing  
February 19, 2014**

Good morning Senator Musto, Representative Jutila and distinguished members of the Government Administration and Elections Committee. My name is Kendall Wiggin and I am the State Librarian. In accordance with Sec. 11-8 of the Connecticut General Statutes, the State Librarian is responsible for developing and directing a records management program for all state agencies within the executive department, and the several towns, cities, boroughs, districts and other political subdivisions of the state. I am here today to make some clarifications and express my concerns regarding the proposed changes to section 11-8a, 11-8b and section 7-109 in SB 91. I submitted testimony in March 2012 on HB 5398, *An Act Modifying Records Retention Requirements for Certain Records in Electronic Form*. Similar to HB 5398, SB 91 has potential widespread implications regarding the retention and preservation of long-term and permanent public records.

The State Library does not mandate which records a public agency creates or the format in which the records are retained. Public agencies are already allowed to retain electronic copies of records. However, public agencies must be able to access the records for the entire retention period as established by the Office of the Public Records Administrator based on the legal, fiscal, administrative, and historical value of those records, as well as any additional requirements set by state or federal statutes or regulations. The Office of the Public Records Administrator regularly reviews records retention schedules and works with advisory committees to determine the appropriate length of time each record needs to be retained. Record retention schedules are reviewed periodically to determine whether the retention periods should be adjusted.

While there are close to 1,000 municipal records series, less than 20% are required to be retained beyond 10 years. Records having a retention period of more than 10 years or are of permanent/archival value are primarily those that: 1) protect the assets of our citizens, businesses and municipalities, such as land records and indexes, grand lists, and building

permits; 2) ensure open government, such as minutes of boards and commission; 3) protect the rights of municipalities and their employees, such as employment records and legal opinions; 4) ensure public safety, such as criminal histories, certain case investigation records or bridge records; and 5) preserve our history, such as vital records, town annual reports, or certain original paper records having intrinsic or artifactual value, especially those created prior to 1920. It is these records that I am most concerned about.

The security of these records is of paramount concern. Securing an electronic record is not the same as securing a paper record by locking a filing cabinet, but requires significant fiscal and technical resources. In addition, permanent and long term records essential to the public agency's operations and functions must be protected against loss in the event of a disaster. Without a human readable backup such as paper or microforms, these important records listed above would be in jeopardy for the reasons outlined below.

#### **SB 91 Section 1 (d)**

In SB 91, Section 1 (d) mandates that my office establish guidelines for transferring municipal records to electronic format. First, I believe what is meant is the "conversion" not "transfer" of records to electronic format. In the field of records management and in the statutes, the term transfer has a different meaning. Secondly, I believe that the State Library already has that authority and, in fact, has issued guidelines for the conversion of paper records into electronic format under General Letter 2001-1, "Standards for the Use of Imaging Technology for Storage, Retrieval, and Disposition of Public Records" (<http://www.cslib.org/publicrecords/GL2001-1Mod2010.pdf>). Thirdly, as drafted, it is unclear whether the guidelines to be established under the section would address the conversion of the records and the safe storage of the originals or the storage of the electronic records. Fourthly, as drafted, the wording of this section does not address guidelines for all those records that are not permanent, but have a retention period of more than 10 years.

Under GL 2001-1, the Office of the Public Records Administrator may approve the disposal of original public records having a retention period of more than ten years, including permanent records, if the agency also retains a security copy of the record in a microform, and the security copy is maintained in an organized recordkeeping system. In certain cases, the Public Records Administrator or State Archivist may specifically require that the original paper format be retained if the document has intrinsic or artifactual value. The office is currently in the process of updating GL 2001-1 as a result of technological changes since the current General Letter was issued. The proposed revisions will allow for the disposal of original, non-archival records having a retention period of less than permanent and reformatted using an imaging technology. However, the technological limitations that underlie the reasoning behind the requirement for a human readable security copy for permanent/archival records remain unchanged. No electronic media designed for records storage has a proven lifespan that matches that for paper or micrographics, which can last hundreds of years. Current estimates for the highest quality magnetic tapes or disks stored under optimum conditions are between 20 and 75 years before the format becomes unusable. The rapid evolution of software and hardware leads to technological obsolescence. Most software and hardware in use just ten years ago, in the early 2000s, is no longer operative. For example, 3.5" floppy disk drives commonly found on most

computers from that time are no longer installed on current computers. Will there be disc drives to read today's CDs or DVDs in 2024?

Many public agencies currently do not follow best practices for the management and storage of electronic records. Also, if a public agency stores electronic media in existing vaults, the storage media is at risk because the manner in which a paper vault functions in a fire is damaging to electronic media.

It is important that records not be reformatted by scanning solely for space-saving purposes. Rather, it should be because it is the right media and technology choice to meet the needs of the public agency and its citizens in a cost effective manner throughout the record's life cycle. The management of electronic records requires significant technical and financial resources over time, much more so than that required for paper and micrographic records. Long term storage costs involve more than purchasing servers. To maintain electronic records for the long term, many factors must be addressed, including issues of authentication, chain of custody, metadata, file naming structures, security, file formats, and ongoing migration. These requirements create a considerable expense for a public agency in both fiscal and personnel resources.

Pursuant to Public Act 11-150, I submitted a report to the Governor titled "Recommendations of the State Librarian for Establishing Standards and Guidelines for the Preservation and Authentication of Electronic Documents"

([http://www.ctstatelibrary.org/sites/default/files/add\\_file/PA11-150StLibRec\\_20120105.pdf](http://www.ctstatelibrary.org/sites/default/files/add_file/PA11-150StLibRec_20120105.pdf)). As a result of that legislation, the Office of the Public Records Administrator, in consultation with the state's Chief Information Officer, will be issuing a Public Records Policy which establishes standards for the preservation and authentication of electronic documents. Once we have a framework in place to address these critical issues, we can better address the conversion of paper records to electronic records and the issues surrounding the disposition of the original paper records with a permanent retention.

#### **SB 91 Section 2**

We do not recommend that the text "rules and" be deleted from Section 11-8b as our office issues guidelines and standards as well as regulations.

#### **SB 91 Section 3 (b)**

Section Sec. 3 (b) of the proposed bill requires the Public Records Administrator to permit the disposal of municipal records with a retention period of over 10 years once the municipality has retained a record electronically using a method approved by the Public Records Administrator. First, there should be a reference back to CGS Sec. 11-8a, which is the statute that requires the State Archivist and the Public Records Administrator to review all disposition authorizations – not just the Public Records Administrator as proposed in this bill. I assume that the records would not only be retained under the guidelines, but created as well. Secondly, the current guidelines already permit the disposal of records whose retention period is greater than 10 years that have been converted to electronic format as outlined above. Thirdly, this amendment

would apply to all records with a retention period of more than 10 years. I am extremely concerned about including land records and other long term or permanent/archival records in this proposal as there are already guidelines in place for the conversion and safe storage of reformatted records. This process has worked very well. Given all of the concerns raised above, at this time, the State Library does not see any viable alternative method that the Office of the Public Records Administrator would approve.

Overall this bill proposes to significantly change how we access and preserve records in our state. Long-term and archival records are necessary for the protection of citizens' rights and well-being, as well as the rights of the state or the municipality. My office is willing to work with the GAE committee to come up with a comprehensive solution that ensures that the integrity of public records in Connecticut are preserved and that records will be accessible for future generations.